



# Introduction to Water Rights

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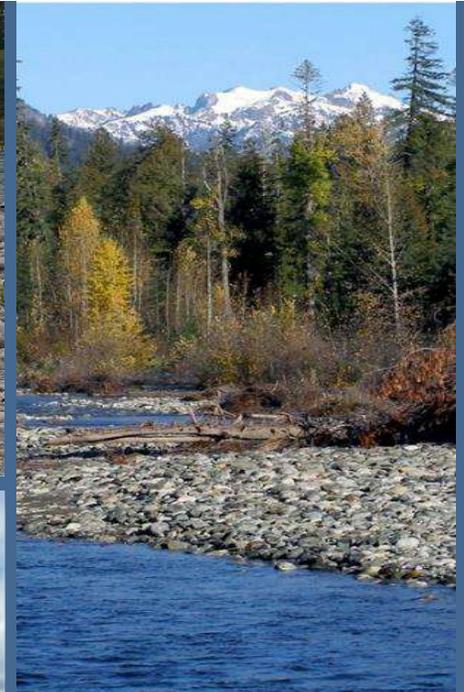




**WATER for PEOPLE, FARMS & FISH**

## Our mission

Support sustainable water resources management to meet the present and future water needs of people and the natural environment, in partnership with Washington communities.



# Full Disclosure



- I am not an attorney 😊
- Water rights are complicated.
- The validity of a right is highly case-specific.
- The legal availability of water is highly location-specific.
- Use your resources!

Water Rights Attorneys

Department of Ecology Staff

Local Governments

Local Water Conservancy Boards

Certified Water Rights Examiners

Consulting Firms



# Presentation Overview



What is a water right?



Investigating a right



New water supplies





# What is a Water Right?



State of Washington, County of Adams  
**Certificate Of Adjudicated Water Right**

**This Is To Certify:**

That by virtue of a decree of the Superior Court of the State of Washington in and for Adams County, made and entered on the 22nd day of December 1986, in the case of State of Washington v. Bar U Ranch Company, et al., County Cause No. 13538, which decree determined the rights of all known claimants to the use of the surface waters of Cow Creek Drainage Basin, in accordance with Chapter 90.03 Revised Code of Washington.

United States of America  
Department of the Interior  
U.S. Fish & Wildlife Service  
Turnbull National Wildlife Refuge

is entitled to use, subject to provisions set forth in said decree, and the laws of the State of Washington, the waters of Upper Cow Creek drainage (Cossalman Lake, West Tritt Lake, Findley Lake.

The water right is confirmed in the amount of water that is reasonably and actually necessary for the purpose of storage for and maintenance of wildlife habitat and shall not exceed 7.1 cfs (nonconsumptive); 1,292 acre-feet continuous wildlife habitat

That the decree aforesaid establishes said right in Class XXXII, with a priority date of June 30, 1914.

That the approximate point(s) of diversion are as follows:

2,250 feet south and 2,375 feet east of the northwest corner of Section 36, being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 36, T. 23 N., R. 41 E.W.M.

That said water right was adjudged by said decree to be and is appurtenant to the following described real property situated in Spokane County, Washington, to-wit:

SW $\frac{1}{4}$ , SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 25; S $\frac{1}{2}$  and NE $\frac{1}{4}$  of Section 35; W $\frac{1}{2}$  of Section 36, ALL within T. 23 N., R. 41 E.W.M.

Any changes in these rights can only be in compliance with Chapter 90.03 RCW.

This certificate of adjudicated water right is specifically subject to relinquishment for nonuse of water as provided in Chapter 90.14 RCW.

This instrument is recorded in the office of the Department of Ecology, Olympia, Washington, in Volume XVI, of Adjudicated Water Right Certificates, at Page 68.

Witness the seal and signature of the Water Resources Program Manager, Department of Ecology, affixed this 11<sup>th</sup> day of March, 1988.



*Heri Aichele*  
Water Resources Program Manager  
Department of Ecology  
State of Washington

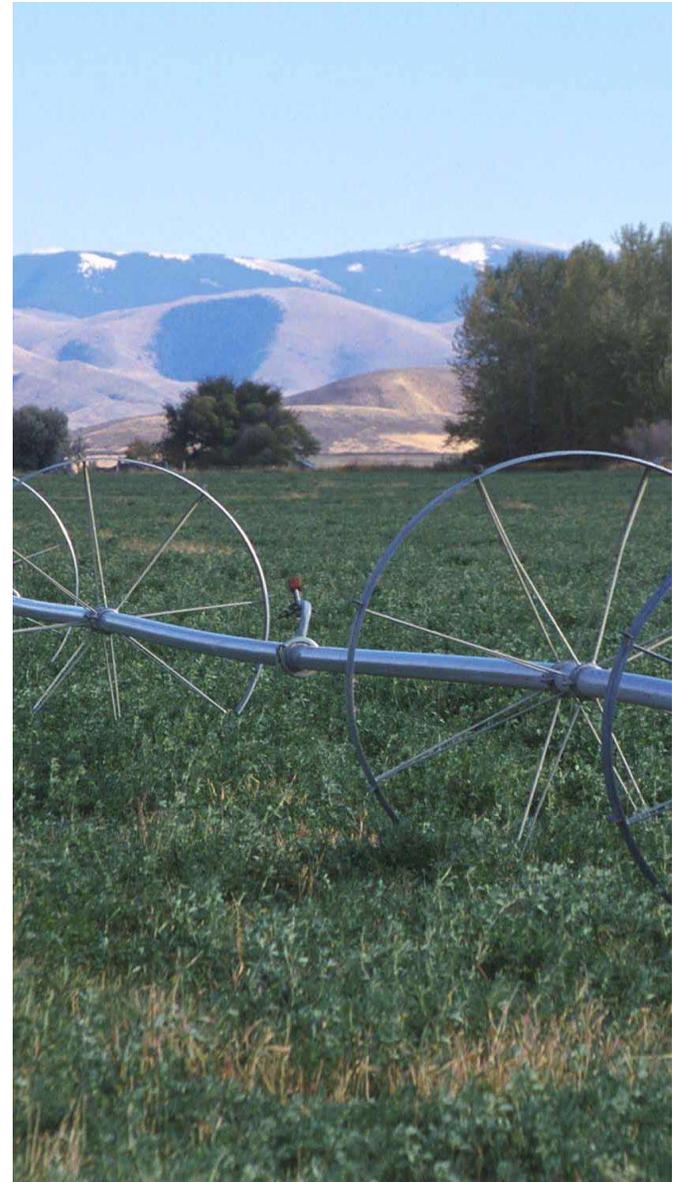
## The right to use water for:

- A specific **beneficial use**.
- A specific **quantity**.
- During a specified **season**.
- From a specific **point** of diversion or withdrawal.
- At a specific **location**.



# Establishing a right

- Claim (use prior to water code)
- Application to Ecology
- Permit-exempt Use
- Instream flows



# Maintaining a right



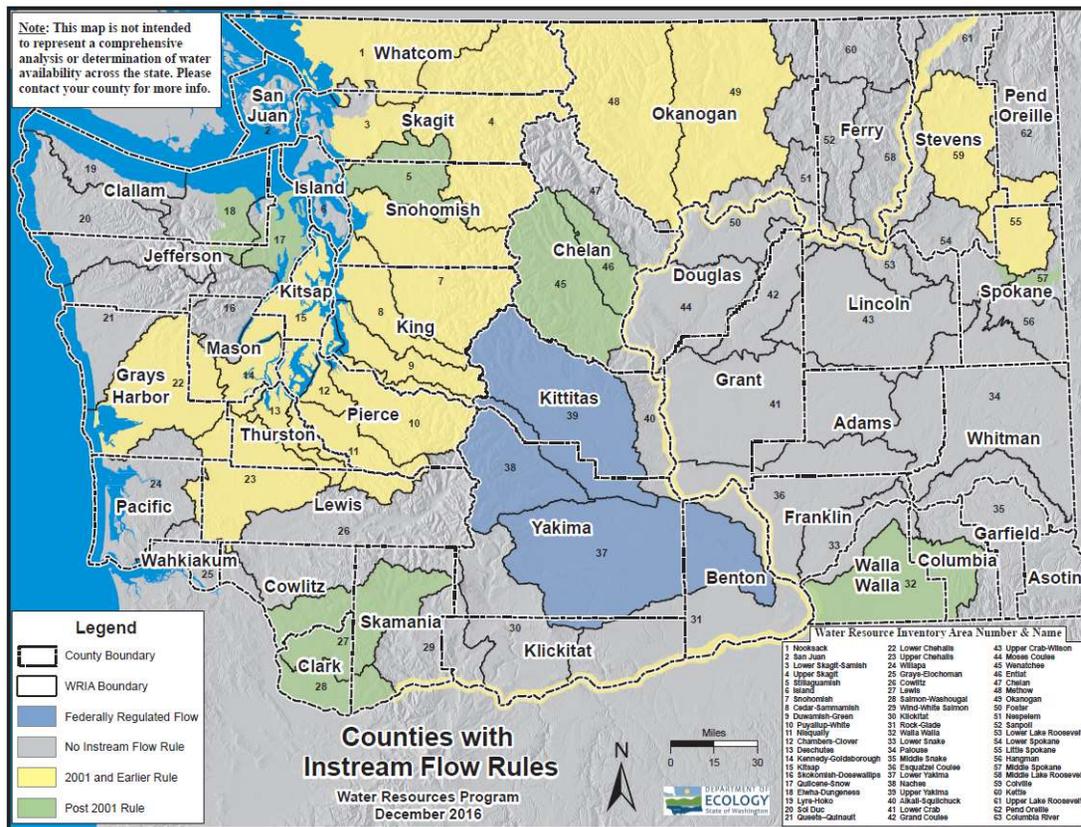
# Exempt wells



- Under RCW 90.44.050, permit-exempt uses include:
  - A single home or groups of homes (up to 5,000 gpd\*);
  - Livestock (no gallon per day limit);
  - A non-commercial lawn or garden one-half acre in size or less (limited to reasonable use); and
  - Industrial purposes, including irrigation (up to 5,000 gpd).

\* Slight difference in basins addressed in RCW 90.94

# Instream flows





# Investigating the Validity of a Water Right



# Certainty is relative

- Only a court can adjudicate a right.
- Ecology performs a “tentative determination of extent and validity” when making decisions.
- Helpful information can be found in associated documents, specifically the Report of Exam.



# Questions to ask...



- When was the water first used on the property?
- Has the right been continuously put to beneficial use?
- Has there been 5 or more years of consecutive nonuse or partial use?
- Does the current use match the elements on the water right?
- Are there neighbors, family members, employees, etc. that can attest to the use over time?
- A picture is worth a thousand words...





# New Water Supplies



# “New” water is hard to find

## Availability depends on the watershed and proposed use.

- In limited circumstances, Ecology may be able to grant new permits.
- Many applicants have to mitigate for all or a portion of the consumptive use.

## Many water rights are now acquired through a change/transfer of an existing right.

- Generally, existing right needs to be a good fit for the proposed use.
- Can be expensive and time consuming.
- No “one stop shop” for available rights.
- Buyer beware!



# Alternative Water Supplies

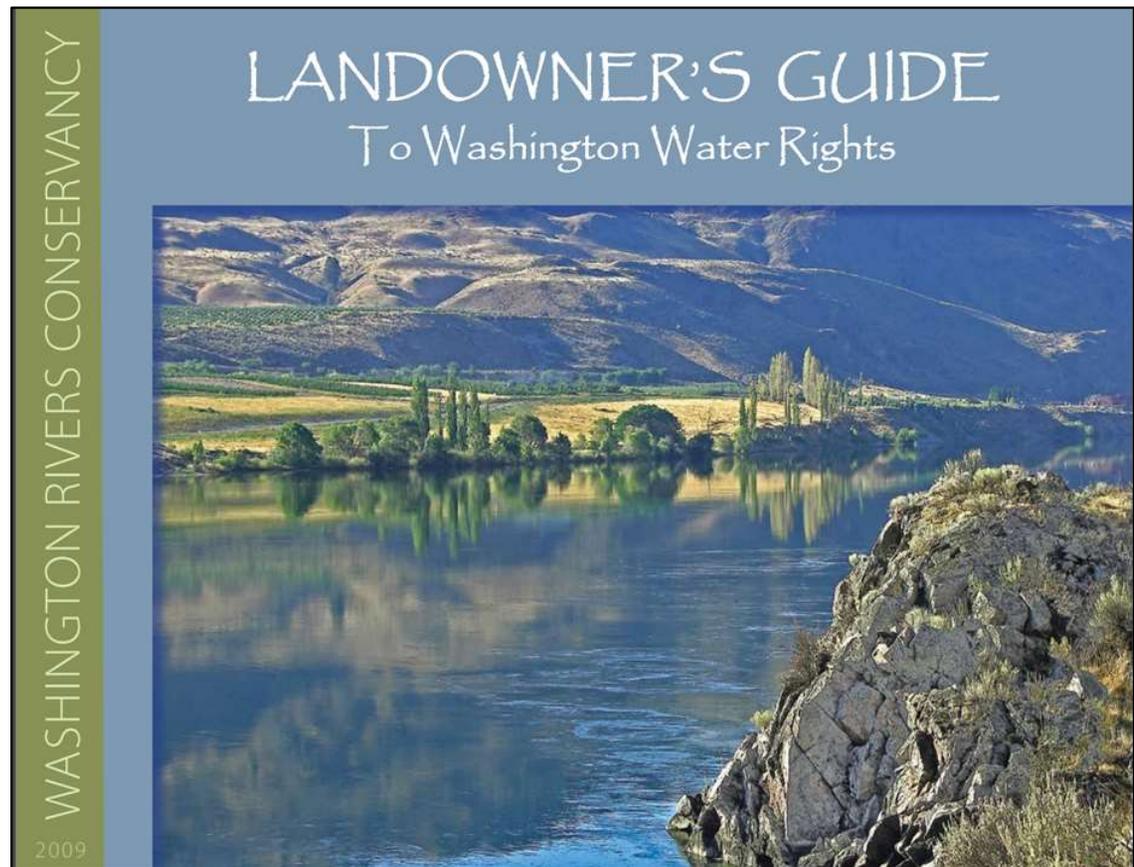


Water Banks  
Retiming Projects  
Reclaimed Water  
Rainwater Collection



## For more information:

- Ecology.wa.gov
- Regional office staff
- “A Landowners Guide”



<https://fortress.wa.gov/ecy/wrdocs/WaterRights/wrwebpdf/landownerguide-2009-2ndEd.pdf>





Thank you!

